

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JEANETTE WOOLSEY,

Plaintiff,

v.

DESIREE ANN MITZEL and CHARLES  
MITZEL,

Defendants.

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Civil Action No.  
1:17-CV-0033 (TJM/DEP)

THOMAS J. McAVOY,  
Senior United States District Judge

**DECISION & ORDER**

**I. INTRODUCTION**

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. David E. Peebles, Chief United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to Magistrate Judge Peebles' Report and Recommendation [dkt. # 24] have been filed, and the time to do so has expired.

**II. DISCUSSION**

After examining the record, this Court has determined that the Report and Recommendation is not subject to attack for plain error or manifest injustice.

**III. CONCLUSION**

Accordingly, the Court **ADOPTS** the Report and Recommendation [dkt. # 24] for the

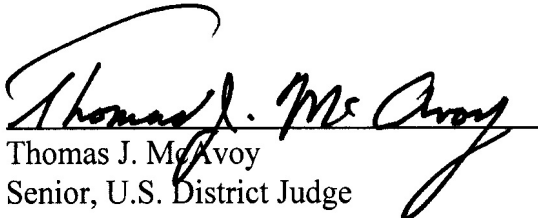
reasons stated therein. Therefore, plaintiff's amended complaint [dkt. # 12] is DISMISSED as frivolous, with leave to replead only with respect to claims that do not directly relate to plaintiff's attempt to regain custody of her biological daughter.

If plaintiff elects to file a second amended complaint, she must do so within thirty (30) days from the date of this Decision and Order. Plaintiff is advised that an amended complaint **supersedes in all respects** the prior pleading. Therefore, if plaintiff files a second amended complaint, she **must properly allege in the second amended complaint all factual bases for all claims asserted therein, and the second amended complaint must be in compliance with Rules 8 and 10 of the Federal Rules of Civil Procedure as explained by Magistrate Judge Peebles.** The failure to file a second amended complaint within this time frame will be deemed an abandonment of any other potential claims arising from this matter, and the Court Clerk's Office will close this file and enter judgment for defendants.

Defendants' Motion to Dismiss [dkt. # 30], is denied without prejudice as moot.

**IT IS SO ORDERED.**

Dated: April 10, 2017

  
Thomas J. McAvoy  
Senior, U.S. District Judge